

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JONATHAN DWAYNE RUFFIN,

Plaintiff,

v.

PIERCE COUNTY COUNCIL, *et al.*,

Defendants.

Case No. C23-5541-TSZ-SKV

ORDER WITHDRAWING REPORT AND
RECOMMENDATION AND GRANTING
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS

This is a civil rights action proceeding under 42 U.S.C. § 1983. On June 15, 2023, Plaintiff submitted his complaint to the Court for filing together with an application to proceed with *in forma pauperis* (“IFP”). *See* Dkt. 1. However, Plaintiff failed to submit with his IFP application the required prison trust account statement. Thus, on June 20, 2023, the Clerk sent Plaintiff a letter advising him of this deficiency and explaining that he would have to correct the deficiency by July 20, 2023, or risk dismissal of this action. Dkt. 3. Plaintiff failed to timely correct the noted deficiency, and on August 11, 2023, the undersigned issued a Report and Recommendation recommending that Plaintiff’s application to proceed IFP be denied. Dkt. 4. Shortly thereafter, on August 15, 2023, Plaintiff corrected the deficiency in his IFP application

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1 by submitting his prison trust account statement. The Report and Recommendation has not yet
2 been ruled on by the District Judge.

3 Given that the Report and Recommendation has not yet been ruled on by the District
4 Judge and given that Plaintiff has corrected the deficiency that prompted issuance of the Report
5 and Recommendation, this Court deems it appropriate to withdraw the previously issued Report
6 and Recommendation and rule on Plaintiff's pending IFP application. Accordingly, the Court,
7 hereby ORDERS as follows:

8 (1) The Report and Recommendation issued by the undersigned on August 11, 2023
9 (Dkt. 4), is WITHDRAWN.

10 (2) Plaintiff's application to proceed IFP (Dkt. 6) is GRANTED as Plaintiff's
11 declaration indicates that he is unable to afford the Court's filing fee or give security therefore.
12 As set forth below, an initial partial filing fee will be collected, and Plaintiff is thereafter required
13 to make monthly payments of 20 percent of the preceding month's income credited to his
14 account until the full amount of the filing fee is satisfied.

15 Pursuant to 28 U.S.C. § 1915, and Plaintiff's approved application to proceed *in forma*
16 *pauperis*, the agency having custody of the above-named Plaintiff is directed to calculate an
17 initial partial filing fee equal to 20 percent of the greater of either: (a) the average monthly
18 deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account
19 for the 6-month period immediately preceding the date of this Order. The initial partial filing fee
20 should be forwarded to the Clerk of Court as soon as practicable.

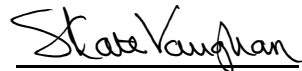
21 Subsequently, if the prisoner's account exceeds \$10.00, each month the agency having
22 custody of the prisoner is directed to collect and forward payments equal to 20 percent of the

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1 prisoner's preceding month's income credited to the prisoner's account. In the event that the
2 monthly payment would reduce the prisoner's account below \$10.00, the agency should collect
3 and forward only that amount which would reduce the prisoner's account to the \$10.00 level.
4 Please note that this \$10.00 limit does not apply to the initial partial filing fee described above.
5 Finally, the monthly payments should be collected and forwarded to the Court until the entire
6 filing fee (\$350.00) for this matter has been paid.

7 (3) The Clerk is directed to send a copy of this Order to Plaintiff, to the financial
8 officer of this Court, to the agency having custody of Plaintiff, and to the Honorable Thomas S.
9 Zilly.

10 Dated this 28th day of September, 2023.

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13 S. KATE VAUGHAN
14 United States Magistrate Judge
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